

BILL LOCKYER, Attorney General  
of the State of California  
E. A. JONES III, State Bar No. 71375  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-2543  
Facsimile: (213) 897-1071

Attorneys for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2002-63279

ALOUIS FELIX COLGAN, PTA  
5501 Newcastle Avenue, #40  
Encino, CA 91316

**A C C U S A T I O N**

Physical Therapist Assistant No. AT 4077

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about November 29, 1995, the Physical Therapy Board of California issued Physical Therapist Assistant Number AT 4077 to Alouis Felix Colgan, PTA (Respondent). The Physical Therapist Assistant was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2003, and is now delinquent.

**JURISDICTION**

3. This Accusation is brought before the Physical Therapy Board of

1 California (Board), Department of Consumer Affairs, under the authority of the following laws.

2 All section references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2609 of the Code states:

4 The board shall issue, suspend, and revoke licenses and approvals to practice  
5 physical therapy as provided in this chapter.

6 5. Section 2660 of the Code states:

7 The board may, after the conduct of appropriate proceedings under the  
8 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or  
9 impose probationary conditions upon, or issue subject to terms and conditions any  
10 license, certificate, or approval issued under this chapter for any of the following causes:

11 (a) Advertising in violation of Section 17500.

12 (b) Fraud in the procurement of any license under this chapter.

13 (c) Procuring or aiding or offering to procure or aid in criminal abortion.

14 (d) Conviction of a crime which substantially relates to the qualifications,  
15 functions, or duties of a physical therapist. The record of conviction or a certified  
16 copy thereof shall be conclusive evidence of that conviction.

17 (e) Impersonating or acting as a proxy for an applicant in any examination  
18 given under this chapter.

19 (f) Habitual intemperance.

20 (g) Addiction to the excessive use of any habit-forming drug.

21 (h) Gross negligence in his or her practice as a physical therapist.

22 (i) Conviction of a violation of any of the provisions of this chapter or of  
23 the State Medical Practice Act, or violating, or attempting to violate, directly or  
24 indirectly, or assisting in or abetting the violating of, or conspiring to violate any  
25 provision or term of this chapter or of the State Medical Practice Act.

26 (j) The aiding or abetting of any person to violate this chapter or any  
27 regulations duly adopted under this chapter.

28 (k) The aiding or abetting of any person to engage in the unlawful practice

1 of physical therapy.

2 (l) The commission of any fraudulent, dishonest, or corrupt act which is  
3 substantially related to the qualifications, functions, or duties of a physical  
4 therapist.

5 (m) Except for good cause, the knowing failure to protect patients by  
6 failing to follow infection control guidelines of the board, thereby risking  
7 transmission of blood-borne infectious diseases from licensee to patient, from  
8 patient to patient, and from patient to licensee. In administering this subdivision,  
9 the board shall consider referencing the standards, regulations, and guidelines of  
10 the State Department of Health Services developed pursuant to Section 1250.11 of  
11 the Health and Safety Code and the standards, regulations, and guidelines  
12 pursuant to the California Occupational Safety and Health Act of 1973 (Part 1  
13 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing  
14 the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health  
15 care settings. As necessary, the board shall consult with the Medical Board of  
16 California, the California Board of Podiatric Medicine, the Board of Dental  
17 Examiners of California, the Board of Registered Nursing, and the Board of  
18 Vocational Nursing and Psychiatric Technicians, to encourage appropriate  
19 consistency in the implementation of this subdivision.

20 The board shall seek to ensure that licensees are informed of the responsibility of  
21 licensees and others to follow infection control guidelines, and of the most recent  
22 scientifically recognized safeguards for minimizing the risk of transmission of  
23 blood-borne infectious diseases.

24 6. Section 2661.5 of the Code states:

25 (a) In any order issued in resolution of a disciplinary proceeding before  
26 the board, the board may request the administrative law judge to direct any  
27 licensee found guilty of unprofessional conduct to pay to the board a sum not to  
28 exceed the actual and reasonable costs of the investigation and prosecution of the

1 case.

2 (b) The costs to be assessed shall be fixed by the administrative law judge  
3 and shall not in any event be increased by the board. When the board does not  
4 adopt a proposed decision and remands the case to an administrative law judge,  
5 the administrative law judge shall not increase the amount of the assessed costs  
6 specified in the proposed decision.

7 (c) When the payment directed in an order for payment of costs is not  
8 made by the licensee, the board may enforce the order of payment by bringing an  
9 action in any appropriate court. This right of enforcement shall be in addition to  
10 any other rights the board may have as to any licensee directed to pay costs.

11 (d) In any judicial action for the recovery of costs, proof of the board's  
12 decision shall be conclusive proof of the validity of the order of payment and the  
13 terms for payment.

14 (e) (1) Except as provided in paragraph (2), the board shall not renew  
15 or reinstate the license or approval of any person who has failed to pay all  
16 of the costs ordered under this section.

17 (2) Notwithstanding paragraph (1), the board may, in its  
18 discretion, conditionally renew or reinstate for a maximum of one year the  
19 license or approval of any person who demonstrates financial hardship and  
20 who enters into a formal agreement with the board to reimburse the board  
21 within that one year period for those unpaid costs.

22 (f) All costs recovered under this section shall be deposited in the  
23 Physical Therapy Fund as a reimbursement in either the fiscal year in which the  
24 costs are actually recovered or the previous fiscal year, as the board may direct.

25 7. Section 2661 of the Code states:

26 A plea or verdict of guilty or a conviction following a plea of nolo contendere  
27 made to a charge of a felony or of any offense which substantially relates to the  
28 qualifications, functions, or duties of a physical therapist is deemed to be a conviction

1 within the meaning of this article. The board may order the license suspended or  
2 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the  
3 judgement of conviction has been affirmed on appeal or when an order granting probation  
4 is made suspending the imposition of sentence, irrespective of a subsequent order under  
5 Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of  
6 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing  
7 the accusation, information, or indictment.

8 8. California Code of Regulations, title 16, section 1399.20, states:

9 “For the purposes of denial, suspension or revocation of a license or approval,  
10 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall  
11 be considered to be substantially related to the qualifications, functions or duties of a  
12 person holding a license or approval under the Physical Therapy Practice Act if to a  
13 substantial degree it evidences present or potential unfitness of a person to perform the  
14 functions authorized by the license or approval in a manner consistent with the public  
15 health, safety or welfare. Such crimes or acts shall include but not be limited to the  
16 following:

17 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or  
18 abetting the violation of, or conspiring to violate any provision or term of the Physical  
19 Therapy Practice Act.

20 “(b) Conviction of a crime involving fiscal dishonesty arising out of or in  
21 connection with the practice of physical therapy.

22 “(c) Violating or attempting to violate any provision or term of the Medical  
23 Practice Act.

24 9. Section 490 of the Code states:

25 “A board may suspend or revoke a license on the ground that the licensee has  
26 been convicted of a crime, if the crime is substantially related to the qualifications,  
27 functions, or duties of the business or profession for which the license was issued. A  
28 conviction within the meaning of this section means a plea or verdict of guilty or a

1 conviction following a plea of nolo contendere. Any action which a board is permitted to  
2 take following the establishment of a conviction may be taken when the time for appeal  
3 has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order  
4 granting probation is made suspending the imposition of sentence, irrespective of a  
5 subsequent order under the provisions of Section 1203.4 of the Penal Code.”

6 10. Section 493 of the Code states:

7 “Notwithstanding any other provision of law, in a proceeding conducted by a  
8 board within the department pursuant to law to deny an application for a license or to  
9 suspend or revoke a license or otherwise take disciplinary action against a person who  
10 holds a license, upon the ground that the applicant or the licensee has been convicted of a  
11 crime substantially related to the qualifications, functions, and duties of the licensee in  
12 question, the record of conviction of the crime shall be conclusive evidence of the fact  
13 that the conviction occurred, but only of that fact, and the board may inquire into the  
14 circumstances surrounding the commission of the crime in order to fix the degree of  
15 discipline or to determine if the conviction is substantially related to the qualifications,  
16 functions, and duties of the licensee in question.

17 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and  
18 ‘registration.’”

19 FIRST CAUSE FOR DISCIPLINE

20 (Conviction of a Crime)

21 11. Respondent is subject to disciplinary action under sections 2660(d), 2661,  
22 490 and 493 of the Code and California Code of Regulations Title 16, section 1399.20, in that  
23 respondent was convicted of a crime substantially related to the qualifications, functions, or  
24 duties of a physical therapist. The circumstances are as follows:

25 Circumstances Surrounding the Commission of the Crime

26 A. On or about November 15, 2002, respondent drove a black Nissan Frontier p  
27 pick up truck that had no front license plate along side a school bus on State Route 101  
28 southbound near Universal City, honked his horn, waved at the students in the bus, and

1 then exposed his genitals. The children notified the school bus driver who pulled over to  
2 the shoulder. Respondent stopped his car behind the bus, got out and covered his rear  
3 license plate. He then drove away.

4 B. On or about November 19, 2002, respondent drove a black Nissan Frontier  
5 pick up truck that had not front license plate along side a school bus on State Route 170,  
6 honked his horn, waved at the students in the bus, exposed his genitals and then  
7 masturbated. The children notified the school bus driver who pulled over to the shoulder.  
8 Respondent stopped his car behind the bus, go out and covered his rear license plate. He  
9 then drove away.

10 C. On or about November 22, 2002, respondent drove a black Nissan Frontier p  
11 pick up truck that had no front license plate along side a school bus on State Route 170,  
12 honked his horn, waved at the student in the bus, exposed his genitals and then  
13 masturbated. The children notified the school bus driver who pulled over to the shoulder.  
14 Respondent stopped his car behing the bus, got out and covered his rear license place. He  
15 then drove away.

16 D. On or about November 25, 2002, respondent drove a black Nissan Frontier p  
17 pick up truck that had no front license plate along side a school bus on State Route 170,  
18 honked his horn, waved at the student in the bus, exposed his genitals and then  
19 masturbated. The children notified the school bus driver who pulled over to the shoulder.  
20 Respondent stopped his car behing the bus, got out and covered his rear license place. He  
21 then drove away. The California Highway Patrol was subsequently notified and  
22 respondent was apprehended.

### 23 Arrest and Conviction

24 E. On or about November 25, 2002, respondent was arrested by the California  
25 Highway Patrol for a violation of Penal Code sections 314(1), exposing private parts in  
26 public, and 647.6(a), annoying or molesting a child under the age of 18.

27 F. On or about December 13, 2002, a misdemeanor complaint was filed in the  
28 matter of *People of the State of California v. Alouis Felix Colgan*, Case No. 2PN06026,

1 alleging seven misdemeanor counts of violations of Penal Code sections 314(1), exposing  
2 private parts in public, and 12 misdemeanor counts of violations of Penal Code section  
3 647.6(a), annoying or molesting a child under the age of 18.

4 G. On or about April 14, 2003, respondent pled *nolo contendere* to and was  
5 convicted of violations of Penal Code sections 314(1) in counts 1 and 6 of the  
6 misdemeanor complaint in the matter of *People of the State of California v. Alouis Felix*  
7 *Colgan*, Case No. 2PN06026.

8 H. On or about April 14, 2003, the court denied probation on count 1 of the  
9 misdemeanor complaint in the matter of *People of the State of California v. Alouis Felix*  
10 *Colgan*, Case No. 2PN06026, and ordered respondent to serve 360 days in the Los  
11 Angeles County Jail, with credit for 2 days served

12 I. On or about April 14, 2003, the court as to count 6 of the misdemeanor  
13 complaint in the matter of *People of the State of California v. Alouis Felix Colgan*, Case  
14 No. 2PN06026, suspended imposition of sentence and place respondent on summary  
15 probation for a period of 36 months under the following terms and conditions: (1)  
16 Respondent to pay a restitution fine on the amount of \$100.00; (2) respondent to annoy,  
17 harass or molest anyone involved in the case nor threaten anyone nor use force or  
18 violence against anyone; (3) respondent to enroll in and successfully complete a  
19 psychological counseling program (Straight For Life) consisting of 52 weekly sessions;  
20 (4) Respondent to register per Penal Code section 290 (registration of sex offenders);  
21 respondent to stay at least 100 yards away from any victim or witness in the case or from  
22 the location of the arrest; (5) respondent not to associate with persons under 18 years of  
23 age without their parent or guardian present; and (6) respondent to obey all laws and  
24 orders of the court.

25 I. The conviction of the crimes of indecent exposure of one's private parts to  
26 children under the age 18 and of disturbance of the peace by annoying or  
27 molesting children under the age of 18, are substantially related to the  
28 qualifications, functions, or duties of a physical therapist.



1 SECOND CAUSE FOR DISCIPLINE

2 (Corrupt Acts)

3 12. Respondent is subject to disciplinary action under section 2660(l) of the  
4 Code in that respondent committed corrupt acts which were substantially related to the  
5 qualifications, functions, or duties of a physical therapist. The circumstances are as follows:

6 A. The facts and circumstances alleged in subparagraphs 11.A through 11.D are  
7 incorporated here as is fully set forth.

8 B. The serial exposure of one's private parts to minor children constitutes  
9 corrupt acts which are substantially related to the qualifications, functions or duties of a  
10 physical therapist.

11 THIRD CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 13. Respondent is subject to disciplinary action under section 2660 of the  
14 Code in that he engaged in unprofessional conduct. The circumstances are as follows:

15 A. The facts and circumstances alleged in paragraphs 11 and 12 above are  
16 incorporated here as if fully set forth.

17 DISCIPLINE CONSIDERATIONS

18 14. To determine the degree of discipline, if any, to be imposed on  
19 Respondent, Complainant alleges that on or about January 24, 1984, in a prior criminal  
20 proceeding entitled *People v. Alouis Delix Colgan in Los Angeles Superior Court*, Case Number  
21 P0129917. Respondent was convicted for violating Penal Code section 314.1, indecent exposure  
22 and Penal Code section 647(A), disorderly conduct, soliciting a lewd act, misdemeanors and was  
23 ordered to three years probation, fine and ordered to undergo 6 months of counseling. The  
24 conviction was based on a incident in a mall parking lot where respondent engaged in sex with a  
25 woman in his vehicle. The record of the criminal proceeding is incorporated as if fully set forth.

26  
27 PRAYER

28 WHEREFORE, Complainant requests that a hearing be held on the matters herein

1 alleged, and that following the hearing, the Physical Therapy Board of California issue a  
2 decision:

- 3 1. Revoking or suspending Physical Therapist Assistant Number AT 4077,  
4 issued to Alouis Felix Colgan, PTA;
- 5 2. Ordering Alouis Felix Colgan, PTA to pay the Physical Therapy Board of  
6 California the reasonable costs of the investigation and enforcement of this case, pursuant to  
7 Business and Professions Code section 2661.5;
- 8 3. Taking such other and further action as deemed necessary and proper.

9 DATED: January 6, 2004

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12 Original Signed By:  
13 STEVEN K. HARTZELL  
14 Executive Officer  
15 Physical Therapy Board of California  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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